

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION**

Harold E. Curry, et al.,

Plaintiffs,

v.

**Civil Action 2:22-cv-00153
Judge Edmund A. Sargus
Magistrate Judge Elizabeth Preston
Deavers**

Jerome Township, Ohio,

Defendant.

RULE 26(f) REPORT

Pursuant to Federal Rule of Civil Procedure 26(f), a meeting was held on February 28, 2022 and was attended by:

Larry H. James and Hayley E. Kick, counsel for plaintiffs Harold E. Curry, Vivian Curry, and AMH Development,

Michael S. Loughry, counsel for defendant Jerome Township,

Counsel represent that, during the meeting, they engaged in a meaningful attempt to meet and confer on the matters outlined below.

1. **CONSENT TO MAGISTRATE JUDGE**

Do the parties consent to Magistrate Judge jurisdiction pursuant to 28 U.S.C. § 636(c)?

 Yes X No

2. **INITIAL DISCLOSURES**

Have the parties agreed to make initial disclosures?

 X Yes No The proceeding is exempt under Rule 26(a)(1)(B)

If yes, such initial disclosures shall be made by **March 22, 2022**.

3. VENUE AND JURISDICTION

Are there any contested issues related to venue or jurisdiction?

☐ Yes ☒ No

If yes, describe the issue:

If yes, the parties agree that any motion related to venue or jurisdiction shall be filed by _____.

4. PARTIES AND PLEADINGS

- a. The parties agree that any motion or stipulation to amend the pleadings or to join additional parties shall be filed by **April 5, 2022**.
- b. If the case is a class action, the parties agree that the motion for class certification shall be filed by_____.

5. MOTIONS

- a. Are there any pending motion(s)?

☐ Yes ☒ No

If yes, indicate which party filed the motion(s), and identify the motion(s) by name and docket number:

- b. Are the parties requesting expedited briefing on the pending motion(s)?

☐ Yes ☒ No

If yes, identify the proposed expedited schedule:

Opposition to be filed by_____; Reply brief to be filed by_____.

6. ISSUES

Jointly provide a brief description of case, including causes of action set forth in the complaint, and indicate whether there is a jury demand:

- Case Description:
 - The Curry Farm Plaintiffs allege that Jerome Township is legally responsible for the actions of a group of residents who have filed a referendum petition to prevent Curry Farm from being rezoned despite the Township's previous approval of the rezoning and Curry Farm's compliance with Jerome Township's Comprehensive Plan and Zoning Resolution.
 - The Curry Farm Plaintiffs contend that this group of residents' actions – for which the Township is legally responsible – violate the Ohio and U.S. Constitutions.
- Plaintiffs' Complaint sets forth five (5) total causes of action:
 - Count I: Violation of Substantive Due Process under 42 U.S.C. § 1983
 - Count II: Violation of Equal Protection under 42 U.S.C. § 1983
 - Count III: Declaratory Judgment under Ohio law
 - Count IV: In the alternative, a Regulatory Taking under 42 U.S.C. § 1983
 - Count V: A Due Process Taking under 42 U.S.C. § 1983
- Plaintiffs have made a jury demand in their Complaint.

7. DISCOVERY PROCEDURES

a. The parties agree that all discovery shall be completed by **April 29, 2022**. The parties to schedule their discovery in such a way as to require all responses to discovery to be served prior to the cut-off date, and to file any motions relating to discovery within the discovery period unless it is impossible or impractical to do so. If the parties are unable to reach an agreement on any matter related to discovery, they are directed to arrange a conference with the Court. To initiate a telephone conference, counsel are directed to join together on one line and then call the Magistrate Judge's chambers or provide the Court with a call -in number.

b. Do the parties anticipate the production of ESI? _____ Yes X _____ No

If yes, describe the protocol for such production:

c. Do the parties intend to seek a protective order or clawback agreement? No.

If yes, such order or agreement shall be produced to the Court by _____.

8. DISPOSITIVE MOTIONS

a. Any dispositive motions shall be filed by **June 3, 2022**.

b. Are the parties requesting expedited briefing on dispositive motions?

_____ Yes X _____ No

If yes, identify the proposed expedited schedule:

Opposition to be filed by _____; Reply brief to be filed by _____.

9. EXPERT TESTIMONY

a. Primary expert reports must be produced by **May 6, 2022**.

b. Rebuttal expert reports must be produced by **May 20, 2022**.

10. SETTLEMENT

Plaintiff(s) will make a settlement demand by **March 11, 2022**. Defendant will respond by **March 18, 2022**. The parties agree to make a good faith effort to settle this case. The parties understand that this case will be referred to an attorney mediator, or to the Magistrate Judge, for a settlement conference. The Court refers cases to settlement throughout the year. The parties request the following month and year:

March 2022

In order for the conference to be meaningful, the parties agree to complete all discovery that may affect their ability to evaluate this case prior to the settlement conference. The parties understand that they will be expected to comply fully with the settlement conference orders which require, *inter alia*, that settlement demands and offers be exchanged prior to the conference and that principals of the parties attend the conference.

11. RULE 16 PRETRIAL CONFERENCE

Do the parties request a scheduling conference?

____ Yes, the parties would like a conference with the Court prior to it issuing a scheduling order. The parties request that the conference take place _____ in chambers _____ by telephone.

X No, a conference is not necessary; the Court may issue a scheduling order after considering this Report.

12. OTHER MATTERS

Indicate any other matters for the Court's consideration:

Signatures:

Attorney for Plaintiff(s):

Larry H. James
Counsel for _____
Plaintiffs
Bar #
0021773

Hayley E. Kick
Counsel for _____
Plaintiffs
Bar #
0100445

Attorney for Defendant(s):

Michael S. Loughry
Counsel for Jerome Township
Bar # 0073656

Counsel for _____
Bar #

